

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: MIDAMERICAN ENERGY COMPANY	DOCKET NOS. WRU-98-9-156 RFU-98-11 RFU-98-22 RFU-99-2
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ORDER DENYING REQUEST FOR STAY

(Issued March 28, 2000)

On February 28, 2000, the Utilities Board (Board) issued an “Order Directing Refund to Customers” in these combined dockets, ordering MidAmerican Energy Company (MidAmerican) to refund certain sums to its Iowa customers. The refunds are the result of an order issued by the Federal Energy Regulatory Commission (FERC) in Public Service Company of Colorado, et al., Docket Nos. RP97-369-000, et al. Pursuant to that FERC order, Northern Natural Gas Company (Northern) has forwarded to MidAmerican four refunds relating to ad valorem taxes collected by the state of Kansas. These refunds have been the subject of continuing litigation. Due to the uncertainty surrounding the refunds, the Board has issued various orders and waivers in these combined dockets permitting MidAmerican to deposit the refunds in a special account accruing interest at the 90-day commercial paper rate published in The Wall Street Journal. Each of the refunds is being handled in the same manner.

The FERC’s decision was appealed to the U.S. Court of Appeals. On October 29, 1999, in Andarko Petroleum Corporation, et al. v. FERC, 196 F.3d 1264

(D.C. Circuit, 1999), the U.S. Court of Appeals affirmed the FERC's decision directing refunds of amounts with interest. However, on January 21, 2000, the U.S. Court of Appeals granted rehearing. 2000 U.S. App. LEXIS 764. In its decision on rehearing, the Court stated the principle embodied in its decision affirming the FERC's decision remains unchanged. The Court vacated its earlier opinion as far as refund dates are concerned and remanded the case to FERC.

In its February 28, 2000, order, the Board found that MidAmerican should begin refunding to its customers the amounts it has received and deposited in a special account. The Board terminated its earlier grants of waiver from 199 IAC 19.10(8) as they applied to the refunds associated with FERC Docket Nos. RP97-369-000, et al., and directed MidAmerican to file with the Board a detailed plan for refunding these amounts within 30 days from the date of the order, that is, by March 29, 2000.

On March 17, 2000, MidAmerican filed an application for rehearing and stay. MidAmerican requests rehearing because, it argues, there is still substantial uncertainty regarding the ultimate disposition of the refunds. Those arguments will be addressed in a subsequent order. MidAmerican also requested a stay of the requirement that it file a refund plan while the Board rehears the merits of the order requiring refunds.

The Board will deny the request for stay. Requiring that MidAmerican file a refund plan may be useful even while the Board considers rehearing of the

February 28, 2000, order, as it will provide more detailed information regarding the possible effect of requiring a refund at this time.

IT IS THEREFORE ORDERED:

The request for stay of the February 28, 2000, order issued in this docket, filed by MidAmerican Energy Company on March 17, 2000, is denied.

UTILITIES BOARD

/s/ Allan T. Thoms

/s/ Susan J. Frye

ATTEST:

/s/ Raymond K. Vawter, Jr.
Executive Secretary

Dated at Des Moines, Iowa, this 28th day of March, 2000.